

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
FEBRUARY 13, 2019

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Wednesday, February 13, 2019 at 5:00 p.m. Chair Don Zien noted a quorum is present. Roll call was taken. Those present included:

Don Zien, Chair
Kurt Ostoic
Nancy Filsinger
Sara Bowen
Bob Cory (Alternate 4)

Also, staff members present were Village Attorney Eric Larson, Building Inspector Michael Rakow, and Village Clerk Treasurer Kelly Meyer.

Notice of the meeting was provided to the North Shore Now, to all others as required by State open meetings laws, and Village ordinances and posted on the official bulletin boards.

Chair Zien explained to those present that Village Attorney Eric Larson is running about 10 minutes late due to traffic; Board of Appeals will go off record to give him about 5 more minutes to arrive.

Approval of Minutes – January 16, 2019 Meeting

On the motion by Mr. Ostoic, seconded by Ms. Filsinger, and carried unanimously, the Board of Appeals approved the submission of minutes and determinations from the January 16, 2019 meeting, as presented.

Case 2019-02 6770 Reynard Road

The applicant is requesting a special exception pertaining to fences, walls, arbors, architectural screening devices, driveway gates and arbors – section 745-7(B)(3) of the Fox Point Village Code. The applicant is proposing to erect a fence that will be erected on a corner lot and abuts more than one public road. The special exception is requested pursuant to 745-7(B) (3) (h) {1} and 745-7(B) (3) (j) of the Fox Point Code.

Village Attorney Eric Larson arrived at 5:09 p.m.

Village of Fox Point Building Inspector Michael Rakow

Building Inspector Mr. Michael Rakow stated his name and was sworn to provide testimony by the Village Clerk Treasurer.

Village Building Inspector Michael Rakow stated the applicant is applying for a fence permit and since the property is on a corner lot, according to 745-7(B)(3)(h){1} he has directed the applicant to come to the Board of Appeals to determine where the front of the home is located to determine of the fence is permitted. Mr. Rakow's interpretation of the code is that since the address of the parcel is on Reynard Road, he is considering that to be the front of the yard and home. Determining Reynard

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Road to be where the front of the home in consideration of the installation of the fence, he recommends approval; he noted that is up to the Board.

Village Attorney Eric Larson noted the relevant sections of the code are already in your packets. Primarily the first paragraph is the section of the village code 745-7(B) (3) (h) [1], the Board is dealing with today, in addition to the second paragraph, village code 745-7(B) (3) (j).

In this case the Building Inspector has determined that this lot is a corner and an irregular lot. Village Attorney Eric Larson gave guidelines on the Board of Appeal's role in Case 2019-02.

Property owner Sue Cohn of 6770 Reynard Road and Representative A-1 Fence Brent Crubaugh each stated her/his name and were sworn in to provide testimony by the Village Clerk Treasurer

Owner Sue Cohn, 6770 Reynard Road

Property owner Ms. Cohn of subject property at 6770 Reynard Road noted the owners have not had anyone disapprove of the proposed fence. The fence is installed. Ms. Cohn did bring photos of the installed fence along with her today. She explained that Santa Monica Boulevard is where the side of their home sits. The home was built in 1956 and sits on a pie lot. The back lot line is where the fence is. The majority of the front of the home faces Reynard. The driveway is all on Reynard. Ms. Cohn noted she had a survey with her if anyone wanted to see some of the detail. The only access on the Santa Monica side of the home is a sliding glass door, only used for a patio. They considered following the rear lot lines of their home with split rail fence. The fence is pretty open. This fence creates a definition of property lines as property owners. The driveway and the address is all on the Reynard Road. The majority of the front of the home faces Reynard. This is a split rail fence and the fencing is primarily open. The fence provides privacy and a line for the neighbor who were frequently encroaching into their yard.

Building Inspector Michael Rakow stated this fence was already installed, therefore he could only act on the application once received.

Representative/Applicant/Appellant Brent Crubaugh, A-1 Fence 11040 N. Buntrock Avenue, Mequon.

A-1 Fence Mr. Crubaugh stated the permit was applied for about one day prior to installing the fence. He stated typically he knows most of the rules; this one in particular the code has a little bit of code language that was misunderstood.

Sara Bowen noted on the Board of Appeals application, under the general special exception category, she suggested that the description of legitimate need be added to the application form.

Village Attorney Eric Larson stated that they need to define where the property lines are and then treat the application as a request for special exception and proceed under 745-7(B)(3)(j). Village Code section 745-7(B) (3) (j) talks about the Board of Appeals may grant a special exception provide the property owner shows clear and convincing evidence that the applicant has a legitimate need for the special exception and that granting the special exception will not adversely affect the health, safety or welfare of the community or the immediate area where located and will not impede the

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purpose, spirit or intent of this section.

Ms. Cohn noted the legitimate need is to define the property line in the backyard to avoid trespassing. They did contact the neighbor to let them know they would be installing a fence just as a courtesy to them.

Village Attorney Eric Larson put the legitimate need into context for Board of Appeals. If the fence would have been placed in the front yard it is a different special exception with a higher standard. The fence would have to be reasonably necessary to protect the safety of those residing on the property. There is clearly a difference between the two standards. The need is made to be a less strict standard.

Chairman Don Zien closed the testimony at 5:29 p.m. for the Board of Appeals to make a determination.

On the motion by Mr. Ostoic, seconded by Ms. Bowen, and carried by roll call vote, the Board of Appeals approved/denied the special exception for 6770 Reynard Road finding that the fence is in the rear of the yard and the property owners demonstrated a need for the fences need to define the property line.

Adjourn

On the motion by Ms. Bowen, seconded by Ms. Filsinger, and carried unanimously, the Board adjourned at 5:30 p.m.

Respectfully Submitted,



Kelly A. Meyer, OMC/WCMC
Village Clerk Treasurer